

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 502 OF 2025

Ismail Imam Shaikh And Anr ...Applicants
Versus
State Of Maharashtra ...Respondent

AMOL
DILIPRAO
NAWALE

Digitally signed by
AMOL DILIPRAO
NAWALE
Date: 2025.02.27
15:25:14 +0530

Mr. Ranjeet M. Pawar, Advocate for the Applicants.

Ms. Supriya Kak, APP for the State.

Mr. Pradip Bhitade, API Baramati City Police Station present.

CORAM : RAJESH S. PATIL, J.

DATED : 26 FEBRUARY 2025

P.C.:

1. The Applicants are seeking anticipatory bail in connection with C.R.No.0792 of 2024, registered at Baramati City Police Station, Pune (Rural) on 17 November 2024 for the offences under Sections 109 (1), 115 (2), 118 (1), 189 (2), 190, 351 (2), 351 (3), 352, 191 (2), 191 (3) as well as Section 135 of the Maharashtra Police Act, 1951.

2. The present Applicants are Accused Nos. 3 and 13, as arraigned in the F.I.R. In an earlier Anticipatory Bail Application filed by the present Applicants along with other accused persons, while the matter was argued before the coordinate bench on 9 January 2025, the present

Applicants, i.e., Ismail Imam Shaikh (Accused No. 3) and Yunush Ramjan Shaikh (Accused No. 13), sought permission to withdraw the Application.

3. The present Anticipatory Bail Application was filed on 18 February 2025. While considering the fact that successive Anticipatory Bail Applications are filed, the Court posed a query to the Advocate for the Applicants, regarding the grounds on which successive Anticipatory Bail Applications can be preferred.

4. Mr. Pawar, the learned Advocate for the Applicants submits that there is a change in circumstances as the charge-sheet has been filed, in which the present Applicants have been shown as absconding. Additionally, a medical certificate annexed to the charge sheet indicates that the present Applicants had no role in the incident, as the injury sustained, was not caused by the weapon allegedly used by the Applicant.

5. On behalf of the Applicants, the medical certificate is enclosed at page 41. The present Anticipatory Bail Application, along with the police report submitted to the Medical Officer of Baramati Hospital dated 7 January 2025, has also been referred.

6. The learned APP submits that there is no merit in the present Anticipatory Bail Application, as there has been no change in

circumstances since the passing of the order on 9 January 2025, particularly when the Applicants themselves withdrew their Application on that date.

7. She further submits that the medical certificate at page 41 specifically mentioned that injury sustained by the Informant is of a “grievous nature”. Details of the injuries are as follows : (1) “CLW OVR, Parietal & Occipital region, (2) G Brain (P)-IMP # of outer table of Rt parietal Bone $\bar{C}$ soft tissue swelling”. Additionally, she refers to the medical certificate at page 43, which mentions injuries sustained by other Informants, categorizing them as simple.

8. She also submits that three of the Accused are currently in custody, and four witnesses have confirmed the use of a weapon in the present crime. The prosecution will consider filing a supplementary charge-sheet after the recovery of the weapons, namely bamboo sticks, allegedly used by the present Applicants.

9. Lastly, she submits that there is no change in circumstances, and the recovery of bamboo stick is necessary. She contends that the references made by the Applicants pertain merely to the doctor's opinion, and the prosecution will present its full case during the trial.

10. I have heard Advocates of all the parties and have considered the documents on record including the medical certificates, F.I.R. and so also

the order passed by the coordinate bench of this Court on 9 January 2025.

11. The Supreme Court in the order of *G. R. Ananda Babu V/s. The State of Tamil Nadu & Anr in Criminal Appeal No.213 of 2021* has held that successive Anticipatory Bail Application should not be entertained, especially when the case diary and status report clearly indicate that the Accused is absconding and not cooperating with the investigation. The ratio laid down by the Supreme Court applies to the present case.

12. The medical reports support the prosecution's case, confirming that the Informant sustained grievous injuries. As far as for the other witnesses, while their injuries are categorized as simple, they to were injured in the crime committed by the Accused.

13. Out of a total of 13 Accused, only five have been granted Anticipatory Bail by this Court by its order dated 9 January 2025. On that date, the present Applicants chose to withdrawn their Anticipatory Bail Application.

14. The role of the Accused who were granted bail by this Court (Coordinate Bench) were released on the the ground that they were not armed with any weapons. Therefore, the motive is not attributed to them. The only role attributed to them is that they assaulted the complainant and other injured by fist and kick blows.

15. However, the F.I.R. specifically states that the present Applicants were present at the crime scene, armed with weapons. The recovery of these weapons by the police is still pending.

16. The Applicants have referred to the judgment of a Single Judge of this Court in *Ambadas Kisan Bhagwat & Anr. V/s. State of Maharashtra* reported in *2015 ALL MR (Cri) 721*. In this judgment, the facts were that the F.I.R. did not reveal that an axe was used as weapon for the assault. The learned APP, in the said judgment, stated that the axe needed to be recovered. The Court held that considering the facts of the case and the fact that a cross case has been lodged by the party of the Applicants. The prayer deserved to be considered under certain conditions.

17. The facts in *Ambadas Kisan Bhagwat (supra)* are different from those in the present proceedings. In the current case, the Applicants themselves withdrew their Anticipatory Bail Application on **9 January 2025**, and within a period of has then two months, they have filed the present Anticipatory Bail Application.

18. Taking into consideration the facts recorded above, I am of the view that there is no merits in this Anticipatory Bail Application. Hence, the same stands rejected.

(RAJESH S. PATIL, J.)